



EV449098292US

Attorney Docket No.: 2001-8050-RA
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Serial No.: 10/090,268)
Filed: March 4, 2002) Examiner: Nguyen, Camtu Tran
Inventor: WYCKOFF, Robert) Art Unit: 4134
For: SLEEP APNEA DEVICE AND METHOD)
THEREOF)

RESPONSE TO OFFICE ACTION

Mail Stop Response - No Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Myers & Kaplan,
Intellectual Property Law, L.L.C.
1899 Powers Ferry Road
Suite 310
Atlanta, GA 30339

March 11, 2004

Dear Examiner Nguyen,

Responsive to the Office Action mailed February 11, 2004, in the above-styled patent application, please note election as indicated and amend the application as indicated. Please find enclosed a Status of All Claims.

CERTIFICATE OF EXPRESS MAILING

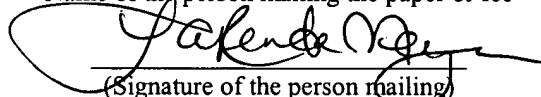
I hereby certify that this correspondence, along with any papers referred to therein as being attached or enclosed therewith, is being deposited with the United States Postal Service with sufficient postage as Express Mail, No. EV449098292US, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313-1450 on:

March 11, 2004

(Date)

LaRenda Meyer

Name of the person mailing the paper or fee


(Signature of the person mailing)

RESTRICTION ELECTION

Pursuant to Examiner's restriction requirement, Applicant elects Species I as shown in Figure 1, Claims 1-19 and 21-24 reading thereon. Applicant respectfully traverses said restriction.

Applicant respectfully asserts that Claim 20 reads on Examiner's second species, as shown in Figure 4, wherein independent claims 1, 17 and 21 each are generic to the species within Claim 20. As described on page 11, lines 10-13, the embodiment of Figure 4 is an alternate embodiment by virtue of a connection to an external negative pressure means. As further described on page 16, lines 5-9, the external negative pressure means can be incorporated to "control and/or assist in the creation and/or maintenance of negative pressure." The addition of the external negative pressure means is an optional limitation, and as such, the species should be included within the generic definition of Independent Claims 1, 17 and 21.



03-12-04

B

PTO/SB/21 (08-08)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

| | | | |
|---|----------------------|------------------------|--------------|
| TRANSMITTAL FORM (to be used for all correspondence after initial filing) | Application Number | 10/098,268 ✓ | |
| | Filing Date | March 4, 2002 | |
| | First Named Inventor | WYCKOFF, Robert | |
| | Art Unit | 4134 | |
| | Examiner Name | Nguyen, Camtu Tran | |
| Total Number of Pages in This Submission | 10 | Attorney Docket Number | 2001-8050-RA |

| ENCLOSURES (Check all that apply) | | |
|--|---|--|
| <input type="checkbox"/> Fee Transmittal Form | <input type="checkbox"/> Drawing(s) | <input type="checkbox"/> After Allowance communication to Group |
| <input type="checkbox"/> Fee Attached | <input type="checkbox"/> Licensing-related Papers | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences |
| <input checked="" type="checkbox"/> Amendment/Reply | <input type="checkbox"/> Petition | <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final | <input type="checkbox"/> Petition to Convert to a Provisional Application | <input type="checkbox"/> Proprietary Information |
| <input type="checkbox"/> Affidavits/declaration(s) | <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address | <input type="checkbox"/> Status Letter |
| <input type="checkbox"/> Extension of Time Request | <input type="checkbox"/> Terminal Disclaimer | <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): |
| <input type="checkbox"/> Express Abandonment Request | <input type="checkbox"/> Request for Refund | Return Receipt Postcard |
| <input type="checkbox"/> Information Disclosure Statement | <input type="checkbox"/> CD, Number of CD(s) _____ | |
| <input type="checkbox"/> Certified Copy of Priority Document(s) | Remarks | |
| <input type="checkbox"/> Response to Missing Parts/Incomplete Application | | |
| <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | | |
| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT | | |
| Firm or Individual name | Sandra M. Sovinski, Esq. | |
| Signature | | |
| Date | 3-11-2004 | |

| CERTIFICATE OF TRANSMISSION/MAILING | | |
|---|----------------|--------------|
| I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below. | | |
| Typed or printed name | La Renda Meyer | |
| Signature | | Date 3-11-04 |

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.